

Claimant's job required her to be at the residence of a disabled person. She was cold and was on her way to get a sweater from her car when she fell. This did not constitute a deviation from her employment and thus claimant was in the course of employment when she fell. See, *Angleton v. Starkan, Inc.*, 250 Kan. 711, 828 P.2d 933

(1992). The accident also arose out of the employment. There is a dispute concerning what, if anything, caused claimant to turn her ankle and fall, but whether the condition of the steps contributed to her fall does not matter. The Appeals Board has followed the majority rule to find unexplained falls to be a neutral risk and compensable. See e.g., Davis v. Montgomery Ward, Docket No. 220,775 (Sept. 1997); Driscoll v. Cedar Vale Hospital, Inc., Docket No. 214,179 (July 1997).

Although walking down stairs could be described as a normal activity of day-to-day living, K.S.A. 1997 Supp. 44-508(e) does not exclude "accidents" that are the result of such activity, but rather excludes injuries where the "disability" is a result of the natural aging process or the normal activities of day-to-day living. Corbett v. Schwan's Sales Enterprises, Docket No. 216,787 (May 1998).

In this case there was a specific onset of injury caused by an accident at work. There is no allegation in this case that claimant's disability resulted from the wear and tear common to acts of everyday living combined with a preexisting condition, as was the case in Boeckmann v. Goodyear Tire & Rubber Co., 210 Kan. 733, 504 P.2d 625 (1972). Neither is this a case where claimant had a preexisting condition which was worsened or made symptomatic by a solely personal risk as in Martin v. U.S.D. No. 233, 5 Kan. App. 2d 298, 615 P.2d 168 (1980). Accordingly, the Appeals Board finds the injury that occurred from the act of walking down stairs does constitute an injury that arose out of the employment.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Administrative Law Judge Bruce E. Moore dated September 10, 1998, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of December 1998.

BOARD MEMBER

c: Patrik W. Neustrom, Salina, KS
C. Stanley Nelson, Salina, KS
Bruce E. Moore, Administrative Law Judge
Philip S. Harness, Director